IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CRIMINAL MISC. PETITION NO.956/01

Gappu **Versus** State

DATE OF ORDER : 05/09/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Sanjay Gangwar for Mr. Ali Mohd. Khan, for petitioner
Mr. Arun Sharma, P.P.

***

Instant petition is directed against the order dated 25th August, 2001 whereby the application filed seeking extension of time was dismissed as the amount, which has been awarded by learned trial Judge could not be deposited by him within time despite delay being properly explained.

A Criminal Case No.122/86 for offence u/ss.447 & 379 IPC was registered against petitioner in which he was convicted on 6th September, 1995 u/s.379 IPC and sentenced to two years' RI and fine of Rs.1,000/- in which he preferred appeal which was partly allowed on 10th January, 1996 while granting benefit of probation and directed to pay Rs.3500/- by both the accused till 22nd January, 1996. Accordingly, the petitioner was under an obligation to pay Rs.1750/- to the complainant in terms of judgment dated 10th January, 1996. Rs.750/- were deposited

by him. For balance of Rs.1,000/- since could not have been deposited, he filed application seeking extension of time for depositing the balance, which was dismissed by learned trial Judge on 25th August, 2001.

This court while entertaining the instant petition passed conditional order on 7th November, 2001 where it was observed that in case he deposits Rs.1,000/- before learned trial court after accepting his bail bonds, he may be released. Under the directions of this court, affidavit has been filed by petitioner in which a specific reference has been made in Para 4 that a sum of Rs.1,000/- was deposited vide Receipt No.0008/029842 in the trial court on 22nd November, 2001. Obviously, because of depositing the said amount, he must have been released in terms of order of this court. Since money was later on deposited, this court does not find any justification to deny the benefit of probation extended to him and the application seeking extension of time filed by accused-petitioner deserves to be allowed.

Accordingly, the present misc. petition stands allowed and the order dated 25th August, 2001 is quashed and set aside.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.